

A A MINERALS CORP.

IBLA 76-591

Decided September 17, 1976

Appeal from a decision of the Utah State Office, Bureau of Land Management, requiring a special stipulation as a condition to the issuance of an oil and gas lease on offer U-29560.

Remanded.

1. Appeals -- Oil and Gas Leases: Stipulations

Where the transmittal of an appeal to the Board of Land Appeals is accompanied by the request of the State Director that the case be remanded because the special stipulation which accompanied the decision from which the appeal was taken was not the correct one, the case is remanded for further consideration by the Bureau of Land Management, and the Board of Land Appeals does not pass on the reasonableness of either stipulation.

APPEARANCES: A A Minerals Corp., by G. W. Anderson, Attorney-in-fact, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Appeal by A A Minerals Corp. from a decision of the Utah State Office, Bureau of Land Management, requiring the execution of a special stipulation as a condition precedent to issuance of noncompetitive oil and gas lease U-29560. That stipulation reads:

No drilling or storage facilities will be allowed within 400 yards of live water located on the land in this lease. This distance may be modified when specifically approved in writing by the District Engineer, Geological Survey, with the concurrence of the District Manager, Bureau of Land Management.

In its Statement of Reasons for Appeal filed with the Board, appellant contends that the 400-yard limitation is arbitrary because of the 240 acres of unleased lands in its lease offer:

Approximately 60 acres \* \* \* are within 400 yards of Big Creek, \* \* \* [which] meanders through a relatively flat valley about 500 yards across, bordered on both sides by steep mountains. All drilling locations on this lease that could be utilized at a reasonable cost are located on the flat valley floor. However, since all locations on the valley floor lie within 400 yards of Big Creek, these locations would not be allowed under the proposed stipulations. \* \*

[1] In transmitting the appeal to this Board, the Utah State Director requested that the case be remanded as the stipulation required in the decision was not the stipulation specified in the environmental analysis report. The State Director attached a copy of such stipulation, which reads:

No occupancy or other surface disturbance will be allowed within 400 yards of any stream, pond or live water course located on the land in this lease. This distance may be modified when specifically approved in writing by the District Engineer, Geological Survey, with the concurrence of the District Manager, Bureau of Land Management.

We do not at this time pass upon the reasonableness of either of the two quoted stipulations. We note that a copy of the environmental analysis report did not accompany this appeal. Also, we note that appellant on appeal in effect argues that the stipulation requiring no drilling within 400 yards of live water actually precludes all drilling locations on the lease that could be utilized without unreasonable cost. It is therefore suggested that the Bureau of Land Management, in establishing what the required stipulation should be, consider the position of appellant and that appellant be given an opportunity to furnish material substantiating its position, and to suggest alternative stipulations to protect the water bodies. With this in view, the case is hereby remanded for further consideration and appropriate action.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is remanded for further consideration and appropriate action.

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Anne Poindexter Lewis  
Administrative Judge

We concur:

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Joan B. Thompson  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

